

MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Planning Commission
From: Timothy Richard, Planner
Through: Townsley Schwab, Senior Director of Planning & Environmental Resources
Date: June 22, 2009
Subject: *Request for appeal to Home Occupation Special Use Permit decision for 376 East Seaview Dr., Duck Key, Mile Marker 61, Real Estate No. 00384510.000000*

Meeting: July 8, 2009

I REQUEST:

The property owner is requesting a home occupation special use permit in order to operate an internet-based business out of his residence. The property owner will manage an internet-based retail business. All service will be conducted on the computer via internet.



Subject Property (outlined in blue) (2006)

Normally an application for a Home Occupation Special Use Permit is approved or denied administratively, and do not require a public hearing by the Planning Commission. Tom and Cathy Scholl, at 368 East Seaview Dr., Duck Key, believe themselves to be adversely affected by the proposed issuance of the Home Occupation Special Use Permit at the subject property. Upon receipt of a SPON letter they requested a public hearing. Pursuant to MCC §130-124(g), adversely affected property owners may request a public hearing to be conducted by the Planning Commission. Their objections are described in the attached letter.

Location:

Address: 376 East Seaview Dr., Duck Key, Mile Marker 61 (Ocean Side)

Legal Description: Block 1, Lot 38, Yacht Club Island Section 4, Tom's Harbor (PB5-82)

Real Estate Number 00384510.000000

Property Owner /Applicant: Bruce Pelkey

II RELEVANT PRIOR COUNTY ACTIONS:

Building Permit 32904 was issued for the construction of the existing single-family residence.

III BACKGROUND INFORMATION:

- A. Size of Site: 10,538 ft² (0.24 acres)
- B. Land Use District: Improved Subdivision-Masonry (IS-M)
- C. Future Land Use Map (FLUM) Designation: Residential Medium (RM)
- D. Tier Designation: Tier 3
- E. Existing Vegetation / Habitat: Developed / Scarified
- F. Existing Use: Single-Family Residential
- G. Community Character of Immediate Vicinity: Single-Family Residential

IV REVIEW OF APPLICATION:

MCC §130-124(d) provides 11 conditions for home occupations. Staff has made the following findings of fact regarding the Applicant's compliance with the following conditions:

- A. *The home occupation is incidental and secondary to the residential use of the building; and*

Based on the floor plan of the residence submitted with the application, the office space will be 6 feet by 8 feet. This establishes a total of 48 ft² of floor area devoted to the home occupation. The total floor area of the residence, based on the Property Appraiser's records, is 1,112 ft². There will not be any additional storage space used, due to the fact

1 that all merchandise will be shipped from an off-site distributor. Therefore, the home
2 occupation is incidental and secondary to the residential use of the building.
3

4 *B. The home occupation does not change the essential residential character of the use; and*
5

6 Based on the written description of the business and affidavit, Staff finds the Applicant
7 will conduct all business via the internet. No goods or merchandise associated with the
8 business will be stored on the premise. Therefore, the home occupation will not change
9 the essential residential character of the use.
10

11 *C. No more than one (1) person who is a non-resident of the dwelling unit is employed by*
12 *the home occupation; and*
13

14 Based on the written description of the business and affidavit, Staff finds that the
15 Applicant shall be the only employee. Therefore, no more than one person who is a non-
16 resident of the dwelling unit will be employed by the home occupation.
17

18 *D. The home occupation use is not more than twenty (20) percent of the total floor area of*
19 *the dwelling; and*
20

21 Based on the floor plan of the residence submitted with the application and affidavit,
22 Staff finds that the home occupation will occupy approximately 4.3 percent of the total
23 floor area of the residence. Therefore, the home occupation is confined to less than 20
24 percent of the total floor area of the dwelling.
25

26 *E. The home occupation does not involve any retail sales or service which would require*
27 *customers to visit the residence, nor does the physical address of the residence appear on*
28 *any advertising materials including stationary or business cards; and*
29

30 Based on the written description of the business and affidavit, Staff finds that the home
31 occupation does not involve any retail sales or service which would require customers to
32 visit the residence. The Applicant will be conducting office duties for an online internet
33 based business. No customers shall be required to come to the residence. Therefore,
34 there will be no advertising using the physical address.
35

36 *F. The home occupation is not visible from any other residential structure; and*
37

38 Based on the floor plan of the residence submitted with the application and affidavit, the
39 office area shall be within the existing structure and there will be no change to the
40 existing footprint. Therefore, the home occupation will not be visible from any other
41 residence.
42

43 *G. No sign advertising the home occupation is displayed on the premises; and*
44

45 Based on the affidavit, there will not be a sign advertising the home occupation.
46 Therefore, the home occupation will not be advertised on the property.

1 H. *The home occupation does not involve the outdoor storage of any equipment or*
2 *materials; and*

3
4 Based on the submitted floor plan and affidavit, Staff finds that the business does not
5 require equipment or materials to be stored outside. Therefore, materials and equipment
6 relating to the home occupation will not be stored outside of the residence.
7

8 I. *The home occupation does not utilize mechanical, electrical, or other equipment that*
9 *produces noise, electrical or magnetic interference, vibration, heat, glare or other*
10 *nuisance outside the residential building or accessory structure; and*

11
12 Based on the written description of the business and affidavit, Staff finds that the
13 Applicant will utilize a computer. Therefore, the home occupation will not use
14 mechanical or electrical equipment that produces noise, electrical or magnetic
15 interference, vibration, heat, glare or other nuisance outside the residential building.
16

17 J. *The home occupation does not increase the average daily automobile trips generated by*
18 *the residence in which the home occupation is located; and*

19
20 Based on the written description and the affidavit, Staff finds that the owner is the only
21 employee and no customers will visit the residence. Therefore, there will be no increase
22 in the average daily automobile trips to the residence.
23

24 K. *Upon issuance of a permit, the Applicant must apply for and maintain an occupational*
25 *license for the home occupation where otherwise required.*

26
27 L. *Other issues:* Based on the input provided my Mr. & Mrs. Scholl, staff did not find
28 sufficient cause to recommend denial of the Home Occupation Special Use Permit on the
29 subject property. However, staff included an additional condition due to their concerns.
30

31 V RECOMMENDATION:

32
33 Based on the review, Staff recommends **APPROVAL** to the Director of Planning &
34 Environmental Resources of the home occupation special use permit, with the following
35 conditions:
36

37 A. All of the conditions outlined in the Applicant Signed Home Occupation Special Use
38 Permit Affidavit are understood and shall be met, under penalty of Code Enforcement.
39

40 B. If required by the Monroe County Tax Collector, the Applicant shall apply for and
41 maintain an occupational license for the home occupation.
42

43 C. The permit and affidavit shall be recorded with the Clerk of the Court in the public
44 records.
45

46 D. Boat or vehicular traffic associated with the home occupation business is prohibited.

Attachment 1: Picture of Pelkey residence- 6/11/09



Attachment 2: Letter requesting a public hearing from Tom & Cathy Scholl (next 2 pages)

388 E Seaview Drive
Duck Key, FL 33050
May 26, 2009

County of Monroe
Growth Management Division
Planning and Environmental Resources Department
2798 Overseas Highway, Suite 410
Marathon, FL 33060

Re: Home Occupation Request
376 E Seaview Drive
Duck Key, FL
RE # 00384510.000000

Dear Mr. Haberman and Mr. Richard,

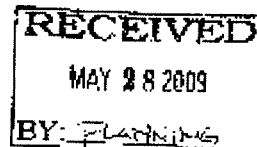
This letter is written to you to request a public hearing by the Monroe County Planning Commission regarding the Home Occupation Request by Bruce Pelkey.

We will be traveling for the next several months and will be unable to attend the hearing. Please let me know when the hearing is scheduled and I will send a letter regarding our objections to the request.

Thank you.

Cathy and Tom Scholl

Cathy and Tom Scholl



29041

368 E. Seaview Drive
Duck Key, FL 33050
May, 19, 2008

County of Monroe
Growth Management Division
Planning and Environmental Resources Department
2799 Overseas Highway, Suite 410
Marathon, FL 33050

Re: Home Occupation Request
376 E. Seaview Drive, Duck Key
RE # 00384510.000000

Dear Mr. Heberman and Mr. Richard,

We are writing this letter to you to ask you to deny Mr. Pelkey's request for a Home Occupation special use permit.

Your office should know that he is already running a business from his residence. It is called "Mister Fish Marine Electronics, LTD". This business has had transactions selling marine electronics beginning January, 2009. Please see the enclosed information from e bay.

This is a residential neighborhood and is not the area to run a business. Upon examination of the application at your office, several items regarding the nature of this "business" concerned us. We realize no auto traffic or customers are to visit this home. However, how will code enforcement police this? Furthermore, if this is a marine electronics consulting business, how would you prevent a boat from docking at the house to consult Mr. Pelkey about their needs? Would the Marine Patrol also have to police this business as well as code enforcement? What about truck traffic from the marine shipments?

In visiting the business website, Navigate-US.com, it is stated that people would get marine electronic information and be directed to a dealer to purchase the items. Another business listed on Mr. Pelkey's application is "Mister Fish Marine Electronics, LTD" with a web address of "misterfishmarineelectronics.com". When visiting that site, you can link to marine electronics for sale on e bay. As of this date, there were electronics listed for sale with free shipping. There were sale transactions listed beginning April 21, 2009, so this other business is already in business at the 376 E. Seaview Drive address. Mr. Pelkey has already shipped out these items under the "misterfishmarineelectronics.com" business.

The actions above do not agree with the application on file. This is not just an Internet consulting business using a 8'X8' area of his home. I suggest your staff conduct further research into this matter as we have done.

There is plenty of office and warehouse space available in Marathon. As neighbors, we do not want a business like this in our residential neighborhood.

Thank you,

Gathy and Tom Scholl

